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CR-236-2021

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ASHISH SHROTI

ON THE 2<sup>nd</sup> OF MAY, 2025

CIVIL REVISION No. 236 of 2021

**MANISH AGRAWAL AND OTHERS**

*Versus*

**WAQF ZAMA MASJID INTZAMIYA COMMITTEE THR. AND  
OTHERS**

.....  
Appearance:

*Shri Santosh Agrawal - advocate for the applicants.*

*Shri Chandra Prakash Sharma- advocate for the respondent no.1.*  
.....

ORDER

The applicants/defendants have filed this Civil Revision under Section 115 of Code of Civil Procedure challenging the order dated 28.07.2021 passed by First Additional Judge to the Court of First Civil Judge, Class-II, Morena (M.P.) in Civil Suit No.160-A of 2020 whereby their application under Order 7 Rule 11 CPC has been rejected by the learned Trial Court.

[2]. For convenience the applicants are referred as 'defendants' and respondent no.1 is referred as 'plaintiff' in this order.

[3]. The facts which are not in dispute are that the plaintiff has filed a suit for eviction against the defendants in the court of First Additional Judge to the Court of First Civil Judge, Class-II, Morena (in short 'Civil Court'). The property in question is a Waqf Property is also not in dispute between the parties. On being summoned, the defendants appeared and filed the



present application under Order 7 Rule 11 CPC praying for rejection of the plaint on the ground that since the property in question is a Waqf Property, the Civil Suit before the Civil Court is not maintainable and the remedy to the plaintiff lies before the Waqf Tribunal constituted under the provisions of Waqf Act, 1995 (in short 'Act'). The plaintiff opposed the prayer and prayed for rejection of the application.

[4]. The learned Trial Court vide impugned order has rejected the application and has held that Civil Court will have the jurisdiction to entertain the suit for eviction. While rejecting the application, learned Trial Court has placed reliance upon the Apex Court judgment in the case of **Faseela M. Vs. Munnerul Islam Madrasa Committee & Anr.** reported in AIR 2014 SC 247 and in the case of **Ramesh Gobind Ram (dead) Through LRS Vs. Sugra Humayun Mirza Waqf** reported in (2010) 8 SCC 726. Being aggrieved by rejection of their application, the applicants are before this Court.

[5]. The learned counsel for the defendants submitted that the rejection of their application by learned Trial Court is *ex-facie* illegal inasmuch as Section 83 of the Act confers exclusive jurisdiction to entertain even a suit for eviction of a tenant, to the Waqf Tribunal. He further submitted that Section 85 of the Act bars the jurisdiction of the Civil Courts in respect of any dispute, question or other matter relating to any Waqf, Wafq Property or other matter which is required by or under the Act to be determined by the Tribunal. He further submits that the reliance over the judgment rendered in the case of **Faseela (supra) & Ramesh Gobind Ram**



(supra) by the Trial Court is misconceived inasmuch as both the judgments have been later on clarified by the Apex Court in the case of **Rashid Wali Beg Vs. Farid Pindari and Ors.** reported in (2022)4 SCC 414.

[6]. The learned counsel for the plaintiff on the other hand supports the impugned order and submitted that the judgment rendered in the case of **Faseela (supra) & Ram Gobind Ram (supra)** were binding upon the learned Trial Court and the application has been rightly rejected. He submits that the Apex Court in the aforesaid two cases has categorically held that the suit for eviction would lie before the Civil Court only. He, therefore, prays for dismissal of the present civil revision.

[7]. Considered arguments and perused the record.

[8]. Before adverting to the facts of present case, it is profitable to refer to certain provisions of the Waqf Act, 1995. Section 83 of the Act provides for constitution of Tribunal and also defines the jurisdiction of the Tribunal to entertain various disputes. Section 83(1) being relevant is reproduced hereunder:

**"83. Constitution of Tribunals, etc.—** (1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, **eviction of a tenant** or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals."

[9]. Thus, reading of sub-Section (1) of Section 83 of the Act makes it abundantly clear that the Tribunal has been conferred with the power to entertain a suit for eviction of a tenant. It may be noted here that Section 83



has been amended by Act 27 of 2013 with effect from 01.11.2013. Further Section 85 of the Act bars the jurisdiction of Civil Court. Section 85 is reproduced hereunder for ready reference:

**"85. Bar of jurisdiction of civil courts.—** No suit or other legal proceeding shall lie in any civil court, revenue court and any other authority in respect of any dispute, question or other matter relating to any waqf, waqf property or other matter which is required by or under this Act to be determined by a Tribunal."

[10]. Thus, reading Section 83 & 85 of Waqf Act conjointly, it becomes evident that the suit for eviction of a tenant filed in respect of a Waqf Property is entertainable by the Waqf Tribunal only and the jurisdiction of the Civil Court is barred.

[11]. The learned Trial Court has passed the impugned order rejecting the defendants' application relying upon the judgment of Apex Court in the case of **Faseela (supra) & Ramesh Gobind Ram (supra)**. In the case of **Ramesh Gobind Ram**, the Apex Court held that the Tribunal has jurisdiction to entertain a *lis* where the dispute as to whether a property is a Waqf Property or not is involved. Meaning thereby, the other disputes were held to be not entertainable by the Tribunal. The case of **Ramesh Gobind Ram (supra)** was thereafter relied upon by the Apex Court in the case of **Faseela (supra)**. Later on, in the case of **Rashid Wali Beg (supra)**, the Apex Court had the occasion to consider provisions of the Act and number of decisions rendered with regard to jurisdiction of the Tribunal by the Apex Court in various cases. The Supreme Court in this case has also considered the judgments of **Ramesh Gobind Ram & Faseela**. After considering aforesaid



legal provisions and judgments in other cases, it has been held that the Tribunal shall have the jurisdiction to entertain the suit for eviction. The discussion of the Apex Court in paragraphs 62 to 65 being relevant is reproduced hereunder;

"62. It is true that in Punjab Waqf Board Vs. Sham Singh Harike, a two member bench of this Court considered Ramesh Gobindram, Anis Fatma Begum as well as Akkode Jumayath Palli Paripalana Committee and doubted in paragraph 35 (of the SCC report IN Sham Singh Harike) the correctness of the decision in Akkode Jumayath Palli Paripalana Committee on the ground that it was not in accord with the ratio of Ramesh Gobindram. But the said conclusion was on the basis of the observations in Ramesh Gobindram to the effect that unless there is any provision in the Waqf Act to entertain the dispute, the Tribunal cannot have jurisdiction.

63. The relevant portion of Paragraph 43 of Sham Singh Harike reads as follows:

"43. The two-Judge Bench of this Court in the above case held the suit to be maintainable in the Waqf Tribunal and noted that the ratio of Ramesh Gobindram has been distinguished in Anis Fatma. But as per ratio of Ramesh Gobindram unless there is any provision in the Waqf Act, 1995 to entertain the said dispute only then the Waqf Tribunal has jurisdiction, the suit filed for injunction was not maintainable in the above case. Thus, what is held in the above judgment by the two Judge Bench is not in accord with the ratio of Ramesh Gobindram

64. We have already seen that it is not as though there was no provision in the Waqf Act conferring jurisdiction upon the Tribunal in respect of the waqf property. We can break the first part of Section 83 into two limbs, the first concerning the determination of any dispute, question or other matter relating to a waqf and the second, concerning the determination of any dispute, question or other matter



relating to a waqf property. *After Amendment Act 27 of 2013, even the eviction of a tenant or determination of the rights and obligation of the lessor and lessee of such property, come within the purview of the Tribunal.* Though the proceedings out of which the present appeal arises, were instituted before the Amendment Act, the words “any dispute, question or other matter relating to a waqf or waqf property” are sufficient to cover any dispute, question or other matter relating to a waqf property. This is why Ramesh Gobindram was sought to be distinguished both in Anis Fatma Begum and Pritpal Singh and such distinction was taken note of in Akkode Jumayath Palli Paripalana Committee. Additionally, this Court in Kiran Devi, refused to apply the ratio of Ramesh Gobindram, on the ground that the suit was originally instituted before the Civil Court, but was later transferred to the Waqf Tribunal and that after allowing the order of transfer to attain finality, it was not open to them to resurrect the issue through Ramesh Gobindram.

*65. It is well settled that the court cannot do violence to the express language of the statute. Section 83(1) even as it stood before the amendment, provided for the determination by the Tribunal, of any dispute, question or other matter (i) relating to a waqf; and (ii) relating to a waqf property. Therefore to say that the Tribunal will have jurisdiction only if the subject property is disputed to be a waqf property and not if it is admitted to be a waqf property, is indigestible in the teeth of Section 83(1)."*

[12]. A discussion of law by the Apex Court in the case of **Rashid Wali Beg (supra)**, makes it abundantly clear that the Tribunal has jurisdiction to entertain the eviction suit in respect of Waqf Property. Pertinently, in **Rashid Wali Beg (supra)**, the Apex Court has considered earlier judgments of the case of Ramesh Gobind Ram & Faseela. Thus, the judgment of Apex Court in **Rashid Wali Beg** would govern the field and is required to be followed.



[13]. In view of the discussion made above, the order passed by learned Trial Court is set aside. The application under Order 7 Rule 11 CPC filed by the applicants is allowed. It is held that the Civil Court does not have the jurisdiction to entertain the suit for eviction in respect of a Waqf Property and instead the Waqf Tribunal alone has the exclusive jurisdiction to try such suit. Accordingly, the plaint filed by respondent no.1 which is pending in the Court of First Additional Judge to the Court of First Civil Judge, Class-II, Morena (M.P.) in Civil Suit No.160-A of 2020 stands rejected. The plaintiff shall however have liberty to initiate appropriate proceedings before the Waqf Tribunal in respect of the relief claimed in the aforesaid Civil Suit.

[14]. The Civil Revision is allowed with the aforesaid terms.

(ASHISH SHROTI)  
JUDGE

vpn/-